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**DEC 13 2005**

**OFFICE OF PETITIONS**

In re :  
**Alvarez** :  
Application No. 10/656,219 : RECONSIDERATION OF  
Filing Date: September 8, 2003 : PATENT TERM ADJUSTMENT  
Atty. Docket:029856-0102 :

This decision is in response to applicant's COMMUNICATION REGARDING PATENT TERM ADJUSTMENT filed on May 26, 2005 requesting that the Office review the amount of PTA because applicant's determination disagrees with the Office determination.<sup>1</sup> The Office determined that applicant should receive eight days of PTA at the time of the mailing of the notice of allowance.

Applicant's letter regarding PTA is **DISMISSED**.

Applicant's assert that the number of PTA days determined by their analysis is different than the eight days calculated by the Office. Applicant did not provide any information as to the nature of the error in the USPTO determination.

Applicant's assertion is not persuasive. A review of the application file reflects that the Office failed to initially act upon the application within fourteen months of the filing date of the application. See 37 CFR 1.702(a)(1).<sup>2</sup> No additional delays were committed by either the USPTO or applicant during the prosecution of the application. If applicant believes that the Office has overlooked some factor in this response, then the

<sup>1</sup> The Office construes this communication as a good faith and candor letter advising the Office that the Office may have granted more PTA than was earned.

<sup>2</sup> The delay began on November 9, 2004 the day after the 14-month deadline and ended on November 16, 2004.

Office invites applicant to reply with a comment as what the error involves.

After the mailing of this decision, the application will be forwarded to the Office of Patent Publications for a prompt issuance of the patent. Any delays occurring under 37 CFR 1.702(a)(4) or (b) will be reflected in the issue notification letter that will be mailed to the applicant approximately three weeks prior to the issue date.

The Office thanks applicants for their good faith and candor in bringing alleged PTO errors to the attention of the Office. Under these circumstances, the Office will not assess a fee for the submission of this letter.

Any questions concerning this decision should be directed to Kery A. Fries, Senior Legal Advisor, at 571-272-7757.

A handwritten signature in black ink, appearing to read "Kery A. Fries", with a stylized flourish at the end.

Kery A. Fries  
Senior Legal Advisor  
Office of Patent Legal Administration  
Office of Deputy Commissioner  
for Patent Examination Policy